

A. J. GRADY

IBLA 80-288

Decided June 16, 1980

Appeal from decision of the California State Office, Bureau of Land Management, returning the notice of location for mining claim CA MC 60449 and declaring the claim abandoned.

Affirmed.

1. Federal Land Policy and Management Act of 1976:
Generally -- Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment --
Mining Claims: Recordation

Under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice of location for the claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979. Failure to so file is deemed conclusively to constitute an abandonment of the claim by the owner.

2. Federal Land Policy and Management Act of 1976:
Generally -- Federal Land Policy and Management Act of 1976: Assessment Work -- Mining Claims: Assessment Work

Under 43 CFR 3833.2-1(a), the owner of a mining claim located on Federal lands on or before October 21, 1976, must file with BLM evidence of annual assessment work or a notice of intention to hold the mining claim on or before October 22, 1979, or on or before December 30 of each calendar year

following the year of recording with BLM, whichever is sooner. Failure to so file constitutes abandonment of the claim.

3. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: A. J. Grady, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

A. J. Grady appeals from the decision of the California State Office, Bureau of Land Management (BLM), dated December 31, 1979, returning a copy of the notice of location and related documents for the Rocky Glenn placer mining claim because they were not filed on or before October 22, 1979, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and corresponding regulations, 43 CFR 3833.1 and 3833.2.

Appellant's predecessor located the mining claim on August 12, 1942. Appellant submitted a copy of the notice of location for the claim and other documents to BLM on December 17, 1979. In his statement of reasons, appellant explains that he was unaware of the recordation requirements until November 1979 when he visited his claim and the owner of an adjacent claim informed him of the necessity of filing. He then contacted BLM which sent him information detailing the recordation requirements. Appellant asserts that his claim cannot be declared abandoned when he did not know the changes in the regulations and all of his local papers are in order and taxes paid.

[1, 2, 3] Section 314 of FLPMA, 43 U.S.C. § 1744 (1976), requires the owner of an unpatented lode or placer mining claim located prior to October 21, 1976, to file a copy of the official record of the notice of location and related documents for the claim in the BLM office designated by the Secretary of the Interior within the 3-year period following October 21, 1976. Section 314 also provides that failure to timely file such records shall be deemed conclusively to constitute an abandonment of the mining claim by the owner.

The pertinent regulations, 43 CFR 3833.1-2(a) and 3833.2-1(a), read as follows:

[§] 3833.1-2 Manner of recordation--Federal lands.

(a) The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands * * * shall file (file shall mean being

received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law. If state law does not require the recordation of a notice or certificate of location [of the claim or site, a certificate of location 1/] containing the information in paragraph (c) of this section shall be filed. * * *

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§ 3833.2 Evidence of assessment work--notice of intention to hold a claim or site.

* * * * *

§ 3833.2-1 When filing required.

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

The fact that appellant may have been unaware of the recordation requirements, while unfortunate, does not excuse him from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance. Glen J. McCrorey, 46 IBLA 355 (1980).

1/ The bracketed language was inadvertently omitted from 43 CFR 3833.1-2(a) (1979) upon printing. The correctly promulgated regulation appeared at 44 FR 20430 (Apr. 5, 1979).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Douglas E. Henriques
Administrative Judge

